

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MAXIE DACOSTA,

Plaintiff,

– against –

THE CITY OF NEW YORK, DETECTIVE
DAVID SHAPIRO, Shield #6054, and
POLICE OFFICERS JOHN AND JANE DOE
#1 THROUGH 20, individually and in their
official capacities

Defendants.

ORDER

15-CV-5174

JACK B. WEINSTEIN, Senior United States District Judge:

Plaintiff shall submit an amended complaint in compliance with this court's prior order on his motion to amend the complaint (*see* ECF No. 84) by November 30, 2017.

Since there appears to be merit to Plaintiff's substantive position and no barrier under the statute of limitations to his malicious prosecution claim (*see* ECF No. 84) the court sets the case down for trial on March 5, 2018 in Courtroom 10 B South at 10:30 a.m. Plaintiff's malicious abuse of process, intentional infliction of emotional distress, and *Monell* liability claims that were conceded or abandoned in his summary judgement papers are dismissed. *See* Pl.'s Br. Summ. J. at 18, EFC No. 63. Because there is no longer a claim against the City of New York, it is dismissed as a defendant. The court is preparing a memorandum explicating its view that the identification before the grand jury did not sufficiently support the indictment.

A hearing on motions *in limine* and all other pre-trial issues, including whether the issues should be narrowed for trial, shall be held on February 20, 2018, at 10:30 a.m. in Courtroom 10 B South. The parties should be prepared to discuss at this hearing whether the grand jury

minutes for the underlying robbery prosecution should be unsealed. Plaintiff and individual defendant shall be present with counsel.

The parties shall exchange and file with the court by February 12, 2018, the following: (1) motions *in limine*; (2) lists of pre-marked exhibits proposed for use at the trial, together with copies of the exhibits, and any stipulations regarding admissibility and authenticity; (3) lists of proposed witnesses together with brief summaries of their proposed testimony; and (4) stipulations with respect to undisputed facts.

The parties shall agree on a briefing schedule. If they cannot agree all scheduling issues are respectfully referred to the magistrate judge.

SO ORDERED.

/s/ Jack B. Weinstein
Jack B. Weinstein
Senior United States District Judge

Dated: November 15, 2017
Brooklyn, New York